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Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2009-1564

**ALISON ROSE CRUZ
20231 Falling Springs Road
Walnut, CA 91789
Vocational Nurse License No. VN 229163**

A C C U S A T I O N

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about August 29, 2007, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 229163 to Alison Rose Cruz ("Respondent"). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians ("Board"), under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 118, subdivision (b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2829.1 the Board may renew an expired license at any time within four years after the expiration.

STATUTORY PROVISIONS

5. Section 490 of the Code provides:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

6. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

7. Section 2878 of the Code provides, in pertinent part:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

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(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.”

8. Section 2878.5 of the Code provides, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of that commitment or confinement...”

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 2518.6 provides, in pertinent part:

“... (b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

...

1 (4) Abstaining from chemical/substance abuse; and

2 . . .

3 (c) A violation of this section constitutes unprofessional conduct for purposes of initiating
4 disciplinary action.”

5 10. California Code of Regulations, title 16, section 2521, provides, in pertinent part:

6 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
7 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
8 considered to be substantially related to the qualifications, functions or duties of a licensed
9 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed
10 vocational nurse to perform the functions authorized by his license in a manner consistent with
11 the public health, safety, or welfare. . . ”

12 **COST RECOVERY**

13 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Criminal Convictions)**

19 12. Respondent is subject to disciplinary action under section 2878, subdivision (f), and
20 section 490 of the Code, as defined by California Code of Regulations, title 16, section 2521, in
21 that Respondent was convicted of crimes substantially related to the qualifications, functions or
22 duties of a licensed vocational nurse as follows:

23 13. On or about May 14, 2010 in the criminal matter entitled *People v. Alison Cruz* (Los
24 Angeles County Superior Court 2009 Case No. 9 MP13646) Respondent was convicted of driving
25 under the influence of alcohol in violation of California Vehicle Code section 23152, subdivision
26 (a), a misdemeanor. Respondent was placed on probation for a period of five years. She was
27 ordered to serve fifteen days in jail, attend a second offender alcohol education course, and pay
28 court fines. The basis for the conviction is that on or about November 6, 2009, Respondent was

1 driving at 3:30 a.m. without lights illuminated on her vehicle. Officers with the Los Angeles
2 Police Department conducted an enforcement stop on Respondent and immediately noticed that
3 she was displaying the objective signs of alcohol impairment. Blood alcohol tests revealed that
4 Respondent's blood alcohol level at the time of driving was .10%.

5 14. On or about May 14, 2008, in the criminal matter entitled *People v. Alison Cruz* (Los
6 Angeles County Superior Court 2008 Case No. 8MP05310), Respondent was convicted of driving
7 with a blood alcohol level .08% or above, in violation of California Vehicle Code section 23152
8 subdivision (b), a misdemeanor. Respondent was placed on probation for three years. She was
9 ordered to serve thirteen days in jail or perform one hundred-ninety hours of community service
10 work, attend an alcohol education course, and pay court fines. The basis for the conviction is that
11 on April 9, 2008 at 2:49 a.m., Respondent was driving with expired registration tabs on her
12 vehicle. When officers with the Los Angeles Police Department conducted an enforcement stop
13 on her vehicle, they immediately observed Respondent displaying the objective signs of alcohol
14 impairment. Blood alcohol tests revealed that Respondent's blood alcohol level at the time of
15 driving was .13%.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Dangerous Use of Alcohol)**

18 15. Respondent is subject to disciplinary action under section 2878.5, subdivision (b) of
19 the Code, in that Respondent used alcoholic beverages in a manner dangerous to herself and the
20 public when she operated a vehicle while under the influence of alcohol. Complainant refers to
21 the allegations set forth in paragraphs 13 and 14, inclusive, above, and herein incorporated by
22 reference as though set forth fully.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Conviction Involving the Consumption of Alcohol)**

25 16. Respondent is subject to disciplinary action under section 2878.5, subdivision (c) of
26 the Code, in that Respondent was convicted of a crime involving the consumption of alcohol.
27 Complainant refers to the allegations set forth in paragraphs 13 and 14, inclusive, above, and
28 herein incorporated by reference as though set forth fully.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Confinement by Court for Intemperate Use of Alcohol)**

3 17. Respondent is subject to disciplinary action under section 2878.5, subdivision (d) of
4 the Code, in that Respondent was confined by a court for the intemperate use of alcohol.
5 Complainant refers to the allegations set forth in paragraphs 13 and 14, inclusive, above, and
6 herein incorporated by reference as though set forth fully.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Alcohol Abuse)**

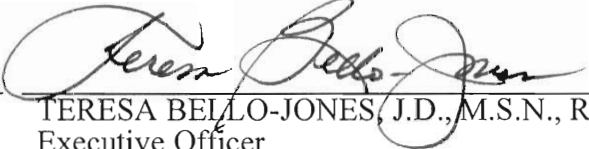
9 18. Respondent is subject to disciplinary action under section 2878, subdivision (a) of the
10 Code as defined by California Code of Regulations, title 16, section 2518.6, subdivisions (b)(4)
11 and (c), in that Respondent failed to abstain from substance abuse. Complainant refers to the
12 allegations set forth in paragraphs 13 and 14, inclusive, above, and herein incorporated by
13 reference as though set forth fully.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
17 issue a decision:

- 18 1. Revoking or suspending Vocational Nurse License Number VN 229163, issued to
19 Alison Rose Cruz;
- 20 2. Ordering Alison Rose Cruz to pay the Board of Vocational Nursing and Psychiatric
21 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to
22 Business and Professions Code section 125.3;
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: February 22, 2011

25 
26 TERESA BELLO-JONES, J.D., M.S.N., R.N.
27 Executive Officer
28 Board of Vocational Nursing and Psychiatric
Technicians
Department of Consumer Affairs
State of California
Complainant

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